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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,879	06/16/2005	Florence Henry	C 2766 PCT/US	6323
23657	7590	08/17/2006	EXAMINER	
COGNIS CORPORATION PATENT DEPARTMENT 300 BROOKSIDE AVENUE AMBLER, PA 19002			CLARK, AMY LYNN	
			ART UNIT	PAPER NUMBER
			1655	

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/539,879

**Applicant(s)**

HENRY ET AL.

**Examiner**

Amy L. Clark

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 12-32 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 12 and 16-22, drawn to a method for treating acne which comprises: applying to the affected area of the skin to be treated a composition containing an anti-acne effective amount of an extract of the plant *Argania spinosa*.

Group II, claims 13, 23, 26 and 29, drawn to a method of treating seborrhoea which comprises: applying to the affected area of the skin to be treated a composition containing an anti-seborrhoea effective amount of an extract of the plant *Argania spinosa*.

Group III, claims 14, 15, 24, 25, 27, 28, 30 and 31, drawn to a method for reducing the activity of anti-5-.alpha.-reductase which comprises: applying to the affected area of the skin to be treated a composition containing an anti-5-.alpha.-reductase effective amount of a preparation containing an anti-5-.alpha.-reductase effective amount of an extract of the plant *Argania spinosa*.

Group IV, claim 32, drawn to a cosmetic or therapeutic composition comprising a dermatologically acceptable carrier and an extract of *Argania spinosa* whereby application to the skin treats at least one condition selected from the group consisting of acne, seborrhoea, and unwanted hair growth.

The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Invention I is drawn to a method for treating acne, whereas Invention II is drawn to a method of treating seborrhea and a search for the method of Invention I is not co-extensive with a search for Invention II since the condition listed in Invention I is not

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related to the condition listed in Invention II. Invention III is drawn to a method for reducing the activity of anti-5- $\alpha$ -reductase and Invention IV is drawn to a cosmetic or therapeutic composition comprising a dermatologically acceptable carrier and an extract of *Argania spinosa*. The method of Invention III is not related to the methods of Inventions I and II and a search for the method of Invention III is not co-extensive with a search for either of the other methods. Moreover, a cosmetic or therapeutic composition comprising a dermatologically acceptable carrier and an extract of *Argania spinosa* may be used to prevent wrinkles or may be used as a food product. Therefore, a search for a composition comprising a dermatologically acceptable carrier and an extract of *Argania spinosa* does not require the particulars of the methods of Inventions I-III. Furthermore, Claim 32, at least, is anticipated by or obvious over Hatinguais et al. (Reference N, FR 2553788A1, Translation of abstract only) Hatinguais teaches a stable lipid extract of argan fruit in apolar solvent for use in the field of skin cosmetology. Consequently, the special technical feature which links the claims does not provide a contribution over the prior art, so unity of the invention is lacking.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Group I:

Specie A: elect either protein or saponin from Claim 17.

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If saponin is elected as Specie A, further elect one saponin from Claim 18.

Specie B: elect one plant part from Claim 21.

If seed kernels is elected as Specie B, further elect either seed kernels or defatted seed kernels.

Group II:

Specie A: elect either protein or saponin from Claim 23.

If saponin is elected as Specie A, further elect one saponin from Claim 26.

Group III:

Specie A: elect either protein or saponin from Claim 24.

If saponin is elected as Specie A, further elect one saponin from Claim 27 or from Claim 28.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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The claims are deemed to correspond to the species listed above in the following manner:

Group I:

Specie A: If saponin is elected, claims 18-22; if arganin A is further elected, claims 17-22; if protein is elected, claims 19-22.

Specie B: If the specie "seed kernels" is elected, claim 22, if any other plant part is elected, only claim 21.

Group II:

Specie A: If saponin is elected, claims 26 and 29; if protein is elected, claim 29.

Group III

Specie A: If saponin is elected, claims 27, 28, 30 and 31; if protein is elected, claims 30 and 31.

The following claim(s) are generic: claims 12, 14, 16 (if saponin is elected), 23 (if saponin is elected), claim 24 (if saponin is elected) and claim 25 (if saponin is elected).

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

Saponins and proteins in Claims 16, 23, 24 and 25, the saponins in claims 16 and 26-28, the parts of the plants in claim 21 and the seed kernels of claim 22 are distinct both physically and functionally from each other both within each Claim and between the Claims. Therefore, a search for a saponin or a protein, a specific types of saponin, a part of a plant and a type of seed kernel is not co-extensive with a search for another.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy L. Clark whose telephone number is (571) 272-1310. The examiner can normally be reached on 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Amy L. Clark  
AU 1655

Amy L. Clark  
August 8, 2006

  
MICHELE FLOOD  
PRIMARY EXAMINER